

HOUSE BILL NO. 48

INTRODUCED BY HARRINGTON, DRISCOLL, D. BROWN, MENAHAN,
MCCARTHY, WHALEN, GALVIN, PAVLOVICH, DAILY, SCHYE,
STRIZICH, DOLEZAL, WYATT, STANG, HARPER

IN THE HOUSE

JULY 11, 1992 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

 FIRST READING.

JULY 15, 1992 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

JULY 16, 1992 PRINTING REPORT.

 SECOND READING, DO PASS.

 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 96; NOES, 2.

 TRANSMITTED TO SENATE.

IN THE SENATE

JULY 16, 1992 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

 FIRST READING.

JULY 17, 1992 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

JULY 18, 1992 SECOND READING, CONCURRED IN.

 THIRD READING, CONCURRED IN.
 AYES, 45; NOES, 4.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

JULY 18, 1992 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.
AYES, 57; NOES, 38.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. **48**

INTRODUCED BY

Harmon King, Dugan, Dave Olson

Menahan, S. McBeth, Carlow, David, Schye, Dokul
A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME

Wright, Gary
PERIOD FOR LIQUOR STORE AGENCY AGREEMENTS AND PROVIDING FOR
THE RENEWAL OF LIQUOR STORE AGENCY AGREEMENTS; REQUIRING THE
DEPARTMENT OF REVENUE TO ADOPT RULES IMPLEMENTING LIQUOR
STORE AGENCY AGREEMENT EXTENSIONS AND RENEWALS; AMENDING
SECTION 16-2-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2] requires the department of revenue to adopt rules implementing extensions of liquor store agency agreements and renewals of existing agency agreements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of state liquor stores -- kinds and prices of liquor and table wine. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the

rules made thereunder.

(b) The department shall enter into an agency agreement or employ the necessary help to operate said stores and shall designate the duties to be performed by the agent or employees.

(c) Once established, a store shall not be closed, converted to an agency store, or sold by the department unless:

(i) the store is returning less than a 10% profit to the state; or

(ii) the closure or sale is approved by the legislature.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor and table wine may be sold, and prices shall be the same at all state stores.

(3) (a) State Except as provided in subsection (6), state liquor stores must be considered for closure, conversion, or sale only when a store lease expires. Prior to the expiration of a lease, the department may conduct a financial profitability analysis using the criteria in subsection (1)(c)(i). In computing profit levels of state-operated stores, the costs of the licensing bureau and the legal and enforcement division, other than inspection costs directly attributable to liquor stores, may not be included as expenses. The revenue oversight committee must

1 be informed of all plans for conversion, sale, or closure of
2 state liquor stores.

3 (b) No agency stores shall be located in or adjacent to
4 grocery stores in communities with populations over 3,000.
5 This provision is applicable only to agency agreements
6 entered into after May 11, 1987.

7 (4) Agency stores must receive commissions based on
8 adjusted gross sales as follows:

9 (a) a 10% commission for agencies in communities with
10 less than 3,000 in population;

11 (b) a commission established by competitive bidding for
12 agencies in communities with 3,000 or more in population.

13 (5) The department shall maintain sufficient inventory
14 in the state warehouse in order to meet a monthly service
15 level of at least 97%.

16 (6) An agent operating a state agency liquor store has
17 the preference right to renew the agent's agency agreement
18 by accepting the terms of the request for bids as those
19 terms existed before January 1, 1991, and by meeting the
20 highest bid made by any other applicant. Those agency
21 agreements that contain renewal options must be honored
22 according to the terms of the agency agreement and request
23 for bids in existence prior to January 1, 1991."

24 NEW SECTION. Section 2. Department to adopt rules. The
25 department of revenue shall adopt rules to implement [this

1 act]. Rules proposed for extending agency agreements and for
2 issuing bids for the renewal of existing agreements must be
3 consistent with [this act].

4 NEW SECTION. Section 3. Effective date. [This act] is
5 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 48

INTRODUCED BY HARRINGTON, DRISCOLL, D. BROWN, MENAHAN,
MCCARTHY, WHALEN, GALVIN, PAVLOVICH, DAILY, SCHYE,
STRIZICH, DOLEZAL, WYATT, STANG, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
ADMINISTRATION OF LIQUOR STORES AND LIQUOR STORE INVENTORY;
EXTENDING THE TIME PERIOD FOR LIQUOR STORE AGENCY AGREEMENTS
AND PROVIDING FOR THE RENEWAL OF LIQUOR STORE AGENCY
AGREEMENTS; REQUIRING THE DEPARTMENT OF REVENUE TO ADOPT
RULES IMPLEMENTING LIQUOR STORE AGENCY AGREEMENT EXTENSIONS
AND RENEWALS; REQUIRING THAT THE DEPARTMENT OF REVENUE
CONDUCT ITS BIDDING PROCESS FOR LIQUOR AND TABLE WINES IN A
MANNER THAT ALLOWS VENDORS OF ALL SIZES TO SELL LIQUOR AND
TABLE WINES TO THE STATE; ESTABLISHING A MORATORIUM ON
RULEMAKING ACTIVITIES OF THE DEPARTMENT OF REVENUE IN
REFERENCE TO LIQUOR STORE INVENTORY TYPES AND SIZES;
AMENDING SECTION 16-2-101, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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[section 2] requires the department of revenue to adopt
rules implementing extensions of liquor store agency
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stores -- kinds and prices of liquor and table wine. (1) (a)
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stores, to be known as "state liquor stores", as the
department finds feasible for the sale of liquor and table
wine in accordance with the provisions of this code and the
rules made thereunder.

(b) The department shall enter into an agency agreement
or employ the necessary help to operate said stores and
shall designate the duties to be performed by the agent or
employees.

(c) Once established, a store shall not be closed,
converted to an agency store, or sold by the department
unless:

(i) the store is returning less than a 10% profit to
the state; or

(ii) the closure or sale is approved by the legislature.

(2) The department may from time to time fix the prices
at which the various classes, varieties, and brands of
liquor and table wine may be sold, and prices shall be the
same at all state stores.

(3) (a) State Except as provided in subsection (6),

1 state liquor stores must be considered for closure,
 2 conversion, or sale only when a store lease expires. Prior
 3 to the expiration of a lease, the department may conduct a
 4 financial profitability analysis using the criteria in
 5 subsection (1)(c)(i). In computing profit levels of
 6 state-operated stores, the costs of the licensing bureau and
 7 the legal and enforcement division, other than inspection
 8 costs directly attributable to liquor stores, may not be
 9 included as expenses. The revenue oversight committee must
 10 be informed of all plans for conversion, sale, or closure of
 11 state liquor stores.

12 (b) No agency stores shall be located in or adjacent to
 13 grocery stores in communities with populations over 3,000.
 14 This provision is applicable only to agency agreements
 15 entered into after May 11, 1987.

16 (4) Agency stores must receive commissions based on
 17 adjusted gross sales as follows:

18 (a) a 10% commission for agencies in communities with
 19 less than 3,000 in population;

20 (b) a commission established by competitive bidding for
 21 agencies in communities with 3,000 or more in population.

22 (5) (A) The department shall maintain sufficient
 23 inventory in the state warehouse in order to meet a monthly
 24 service level of at least 97%.

25 (B) THE DEPARTMENT SHALL, WHEN ISSUING BIDS TO PURCHASE

1 LIQUOR OR TABLE WINE, PROVIDE THAT THE BIDDING PROCESS NOT
 2 DISCRIMINATE AGAINST LOW-VOLUME OR SMALL VENDORS AND MAY NOT
 3 COMBINE ITEMS TO BE PURCHASED IN SUCH A MANNER AS TO
 4 RESTRICT THE NUMBER OF VENDORS THAT WOULD BE ABLE TO SUBMIT
 5 BIDS.

6 (6) An agent operating a state agency liquor store has
 7 the preference right to renew the agent's agency agreement
 8 by accepting the terms of the request for bids as those
 9 terms existed before January 1, 1991, and by meeting the
 10 highest bid made by any other applicant. Those agency
 11 agreements that contain renewal options must be honored
 12 according to the terms of the agency agreement and request
 13 for bids in existence prior to January 1, 1991."

14 NEW SECTION. Section 2. Department to adopt rules. The
 15 department of revenue shall adopt rules to implement [this
 16 act]. Rules proposed for extending agency agreements and for
 17 issuing bids for the renewal of existing agreements must be
 18 consistent with [this act].

19 NEW SECTION. SECTION 3. TEMPORARY MORATORIUM ON RULES
 20 RELATING TO LIQUOR INVENTORY. THE DEPARTMENT OF REVENUE MAY
 21 NOT PROMULGATE, AMEND, OR REPEAL ANY ADMINISTRATIVE RULES
 22 THAT RELATE TO THE INVENTORY OF LIQUOR STORES AND THAT ARE
 23 EFFECTIVE BETWEEN JULY 1, 1992, AND APRIL 1, 1993. THIS
 24 WITHDRAWAL OF RULEMAKING AUTHORITY ALSO RELATES TO RULES
 25 GOVERNING BOTTLE SIZES AND TYPES OF LIQUOR OR TABLE WINE.

1 NEW SECTION. **Section 4.** Effective date --
2 APPLICABILITY. (1) [This act] is effective on passage and
3 approval.
4 (2) [SECTION 3] APPLIES TO ALL ADMINISTRATIVE RULES
5 PROPOSED BY THE DEPARTMENT OF REVENUE THAT HAVE NOT BEEN
6 ADOPTED BEFORE JUNE 30, 1992.

-End-

1 HOUSE BILL NO. 48

2 INTRODUCED BY HARRINGTON, DRISCOLL, D. BROWN, MENAHAN,
3 MCCARTHY, WHALEN, GALVIN, PAVLOVICH, DAILY, SCHYE,
4 STRIZICH, DOLEZAL, WYATT, STANG, HARPER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
7 ADMINISTRATION OF LIQUOR STORES AND LIQUOR STORE INVENTORY;
8 EXTENDING THE TIME PERIOD FOR LIQUOR STORE AGENCY AGREEMENTS
9 AND PROVIDING FOR THE RENEWAL OF LIQUOR STORE AGENCY
10 AGREEMENTS; REQUIRING THE DEPARTMENT OF REVENUE TO ADOPT
11 RULES IMPLEMENTING LIQUOR STORE AGENCY AGREEMENT EXTENSIONS
12 AND RENEWALS; REQUIRING THAT THE DEPARTMENT OF REVENUE
13 CONDUCT ITS BIDDING PROCESS FOR LIQUOR AND TABLE WINES IN A
14 MANNER THAT ALLOWS VENDORS OF ALL SIZES TO SELL LIQUOR AND
15 TABLE WINES TO THE STATE; ESTABLISHING A MORATORIUM ON
16 RULEMAKING ACTIVITIES OF THE DEPARTMENT OF REVENUE IN
17 REFERENCE TO LIQUOR STORE INVENTORY TYPES AND SIZES;
18 AMENDING SECTION 16-2-101, MCA; AND PROVIDING AN IMMEDIATE
19 EFFECTIVE DATE AND AN APPLICABILITY DATE."

20
21 STATEMENT OF INTENT

22 A statement of intent is required for this bill because
23 [section 2] requires the department of revenue to adopt
24 rules implementing extensions of liquor store agency
25 agreements and renewals of existing agency agreements.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 **Section 1.** Section 16-2-101, MCA, is amended to read:

3
4 "16-2-101. Establishment and closure of state liquor
5 stores -- kinds and prices of liquor and table wine. (1) (a)
6 The department shall establish and maintain one or more
7 stores, to be known as "state liquor stores", as the
8 department finds feasible for the sale of liquor and table
9 wine in accordance with the provisions of this code and the
10 rules made thereunder.

11 (b) The department shall enter into an agency agreement
12 or employ the necessary help to operate said stores and
13 shall designate the duties to be performed by the agent or
14 employees.

15 (c) Once established, a store shall not be closed,
16 converted to an agency store, or sold by the department
17 unless:

18 (i) the store is returning less than a 10% profit to
19 the state; or

20 (ii) the closure or sale is approved by the legislature.

21 (2) The department may from time to time fix the prices
22 at which the various classes, varieties, and brands of
23 liquor and table wine may be sold, and prices shall be the
24 same at all state stores.

25 (3) (a) State Except as provided in subsection (6),

1 state liquor stores must be considered for closure,
 2 conversion, or sale only when a store lease expires. Prior
 3 to the expiration of a lease, the department may conduct a
 4 financial profitability analysis using the criteria in
 5 subsection (1)(c)(i). In computing profit levels of
 6 state-operated stores, the costs of the licensing bureau and
 7 the legal and enforcement division, other than inspection
 8 costs directly attributable to liquor stores, may not be
 9 included as expenses. The revenue oversight committee must
 10 be informed of all plans for conversion, sale, or closure of
 11 state liquor stores.

12 (b) No agency stores shall be located in or adjacent to
 13 grocery stores in communities with populations over 3,000.
 14 This provision is applicable only to agency agreements
 15 entered into after May 11, 1987.

16 (4) Agency stores must receive commissions based on
 17 adjusted gross sales as follows:

18 (a) a 10% commission for agencies in communities with
 19 less than 3,000 in population;

20 (b) a commission established by competitive bidding for
 21 agencies in communities with 3,000 or more in population.

22 (5) [A] The department shall maintain sufficient
 23 inventory in the state warehouse in order to meet a monthly
 24 service level of at least 97%.

25 [B] THE DEPARTMENT SHALL, WHEN ISSUING BIDS TO PURCHASE

1 LIQUOR OR TABLE WINE, PROVIDE THAT THE BIDDING PROCESS NOT
 2 DISCRIMINATE AGAINST LOW-VOLUME OR SMALL VENDORS AND MAY NOT
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 10 highest bid made by any other applicant. Those agency
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 20 RELATING TO LIQUOR INVENTORY. THE DEPARTMENT OF REVENUE MAY
 21 NOT PROMULGATE, AMEND, OR REPEAL ANY ADMINISTRATIVE RULES
 22 THAT RELATE TO THE INVENTORY OF LIQUOR STORES AND THAT ARE
 23 EFFECTIVE BETWEEN JULY 1, 1992, AND APRIL 1, 1993. THIS
 24 WITHDRAWAL OF RULEMAKING AUTHORITY ALSO RELATES TO RULES
 25 GOVERNING BOTTLE SIZES AND TYPES OF LIQUOR OR TABLE WINE.

1 NEW SECTION. Section 4. Effective date --
2 APPLICABILITY. (1) [This act] is effective on passage and
3 approval.
4 (2) [SECTION 3] APPLIES TO ALL ADMINISTRATIVE RULES
5 PROPOSED BY THE DEPARTMENT OF REVENUE THAT HAVE NOT BEEN
6 ADOPTED BEFORE JUNE 30, 1992.

-End-

SENATE STANDING COMMITTEE REPORT

Page 2 of 2
July 17, 1992

Page 1 of 2
July 17, 1992

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 48 (third reading copy -- blue), respectfully report that House Bill No. 48 be amended and as so amended be concurred in:

1. Title, line 8.
Following: "AGREEMENTS"
Insert: "AND LEASES"

2. Title, line 10.
Following: "AGREEMENTS"
Insert: "AND LEASES"

3. Title, line 11.
Following: "AGREEMENT"
Insert: "AND LEASE"

4. Title, lines 12 through 15.
Strike: "REQUIRING" on line 12 through "STATE," on line 15

5. Page 1, line 24.
Following: "of"
Insert: "leases or"

6. Page 1, line 25.
Following: "existing"
Insert: "leases or"

7. Page 3, line 22.
Strike: "(A)"

8. Page 3, line 25 through page 4, line 5.
Strike: subsection (b) in its entirety

9. Page 4, line 6.
Following: "store"
Insert: "or a person leasing space to the department to operate a liquor store"

10. Page 4, line 7.
Following: "renew the"
Insert: "lease or"

11. Page 4, line 8.
Following: "bids"
Insert: "or request for proposals"

12. Page 4, line 10.
Strike: "highest"
Insert: "most favorable"
Following: "bid"
Insert: "or proposal"
Following: "Those"
Insert: "leases or"

13. Page 4, line 12.
Following: "of the"
Insert: "lease or"

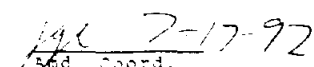
14. Page 4, line 13.
Following: "bids"
Insert: "or request for proposals"

15. Page 4, line 16.
Following: "extending"
Insert: "leases or"

16. Page 4, line 17.
Following: "existing"
Insert: "leases or"

17. Page 5.
Following: line 3
Insert: "(2) [Sections 1 and 2] apply to bids or proposals that have not yet been awarded after [the effective date of this act]."
Renumber: subsequent subsection

Signed: 
Mike Halligan, Chairman


M.L. 7-17-92
Sec. of Senate

SENATE

111727SC.Sj1

HB 48

111727SC.Sj1

HOUSE BILL NO. 48

INTRODUCED BY HARRINGTON, DRISCOLL, D. BROWN, MENAHAN,
MCCARTHY, WHALEN, GALVIN, PAVLOVICH, DAILY, SCHYE,
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ADMINISTRATION OF LIQUOR STORES AND LIQUOR STORE INVENTORY;
EXTENDING THE TIME PERIOD FOR LIQUOR STORE AGENCY AGREEMENTS
AND LEASES AND PROVIDING FOR THE RENEWAL OF LIQUOR STORE
AGENCY AGREEMENTS AND LEASES; REQUIRING THE DEPARTMENT OF
REVENUE TO ADOPT RULES IMPLEMENTING LIQUOR STORE AGENCY
AGREEMENT AND LEASE EXTENSIONS AND RENEWALS; ~~REQUIRING THAT~~
~~THE DEPARTMENT OF REVENUE CONDUCT ITS BIDDING PROCESS FOR~~
~~LIQUOR AND TABLE WINES IN A MANNER THAT ALLOWS VENDORS OF~~
~~ALL SIZES TO SELL LIQUOR AND TABLE WINES TO THE STATE;~~
ESTABLISHING A MORATORIUM ON RULEMAKING ACTIVITIES OF THE
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TYPES AND SIZES; AMENDING SECTION 16-2-101, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
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STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 2] requires the department of revenue to adopt
rules implementing extensions of LEASES OR liquor store

agency agreements and renewals of existing LEASES OR agency
agreements.

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Section 1. Section 16-2-101, MCA, is amended to read:

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1 same at all state stores.

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 7 subsection (1)(c)(i). In computing profit levels of
 8 state-operated stores, the costs of the licensing bureau and
 9 the legal and enforcement division, other than inspection
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22 (b) a commission established by competitive bidding for
 23 agencies in communities with 3,000 or more in population.

24 (5) ~~(A)~~ The department shall maintain sufficient
 25 inventory in the state warehouse in order to meet a monthly

1 service level of at least 97%.

2 ~~(B)--THE-DEPARTMENT-SHALL, WHEN ISSUING BIDS TO PURCHASE~~
 3 ~~LIQUOR OR TABLE WINE, PROVIDE THAT THE BIDDING--PROCESS--NOT~~
 4 ~~DISCRIMINATE AGAINST LOW VOLUME OR SMALL VENDORS AND MAY NOT~~
 5 ~~COMBINE--ITEMS--TO--BE--PURCHASED--IN--SUCH--A--MANNER--AS--TO~~
 6 ~~RESTRICT THE NUMBER OF VENDORS THAT WOULD BE ABLE TO--SUBMIT~~
 7 ~~BIDS-~~

8 (6) An agent operating a state agency liquor store OR A
 9 PERSON LEASING SPACE TO THE DEPARTMENT TO OPERATE A LIQUOR
 10 STORE has the preference right to renew the LEASE OR agent's
 11 agency agreement by accepting the terms of the request for
 12 bids OR REQUEST FOR PROPOSALS as those terms existed before
 13 January 1, 1991, and by meeting the highest MOST FAVORABLE
 14 bid OR PROPOSAL made by any other applicant. Those LEASES OR
 15 agency agreements that contain renewal options must be
 16 honored according to the terms of the LEASE OR agency
 17 agreement and request for bids OR REQUEST FOR PROPOSALS in
 18 existence prior to January 1, 1991."

19 NEW SECTION. Section 2. Department to adopt rules. The
 20 department of revenue shall adopt rules to implement [this
 21 act]. Rules proposed for extending LEASES OR agency
 22 agreements and for issuing bids for the renewal of existing
 23 LEASES OR agreements must be consistent with [this act].

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 25 RELATING TO LIQUOR INVENTORY. THE DEPARTMENT OF REVENUE MAY

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3 EFFECTIVE BETWEEN JULY 1, 1992, AND APRIL 1, 1993. THIS
4 WITHDRAWAL OF RULEMAKING AUTHORITY ALSO RELATES TO RULES
5 GOVERNING BOTTLE SIZES AND TYPES OF LIQUOR OR TABLE WINE.

6 NEW SECTION. Section 4. Effective date --
7 APPLICABILITY. (1) [This act] is effective on passage and
8 approval.

9 (2) [SECTIONS 1 AND 2] APPLY TO BIDS OR PROPOSALS THAT
10 HAVE NOT YET BEEN AWARDED AFTER [THE EFFECTIVE DATE OF THIS
11 ACT].

12 +2+3) [SECTION 3] APPLIES TO ALL ADMINISTRATIVE RULES
13 PROPOSED BY THE DEPARTMENT OF REVENUE THAT HAVE NOT BEEN
14 ADOPTED BEFORE JUNE 30, 1992.

-End-